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[REDACTED]
AUG 7 1969

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information submitted discloses that you were incorporated under the laws of the State of [REDACTED] on [REDACTED].

The purpose for which the corporation is organized is to administer and maintain the common property and facilities, including streets and roadways within, and the access road to, the subdivision known as [REDACTED]; for the exclusive use, benefit and enjoyment of the owners of residential lots in the Subdivision and their guests.

Your activities, as stated in your application, include maintenance of the common property of the Homeowners Association and the collection of annual assessments from members.

The purpose of the assessment of members is to maintain, renovate, improve, operate and administer the Common Facilities including, by way of amplification and not limitation, the streets, roads and easements within the subdivision and to construct maintain, renovate, operate and administer such additional common facilities in the subdivision as the Association may deem necessary and proper, for the benefit and enjoyment of the Owners to the end that the value of the property shall be protected promoted and enhanced.

Additionally, the assessment shall be used for the payment of taxes and insurance upon or with reference to the Common Facilities.

Every person who owns a lot in the subdivision of the Association is required to be a member of the Association.

Your income is from membership assessments. Expenditures are for insurance, maintenance, office expenses, taxes and grass mowing.

No funds will be expended other than for goods and services necessary for maintenance and renovation of common areas in the subdivision and for the administration of the Association.

Section 501(c)(3) of the Code provides for exemption from federal income tax organizations organized and operated exclusively for charitable, scientific, or educational purposes; no part of the net earnings of which inures to the benefit of any private shareholder or individual. A shareholder refers to anyone having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one of the purposes specified in that section. The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities. If an organization does not meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purpose only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(ii) of the Regulations provides that an organization is not organized and operated exclusively for one or more of the purpose specified in Section 501(c)(3) unless it serves a public rather than a private interest. Thus, to meet the requirements of Section 501(c)(3) it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals.

Regulations section 1.501(c)(3)-1(b)(1) specifies that an organization is organized exclusively for one or more purposes only if its Articles of Incorporation limit the purposes of such organization to one or more exempt purposes.

Revenue Ruling 74-17 concerns an association formed by unit owners of a condominium housing project which was operated to provide for the management, maintenance and care of the common areas of the project. Because the essential structure of a condominium association involves ownership in common by all unit owners of common areas and the maintenance and care of private property, the tax court held that the organization could not be recognized as tax exempt because the activities of the association constituted providing private benefit for the unit owners.

Our review of the application submitted under section 501(c)(3) of the code indicates that your organization does not meet either the organizational or operational tests. Your Articles of Incorporation do not limit your purposes exclusively to religious, charitable or other stated purposes and the organizations purposes are broader than purposes specified in section 501(c)(3), and they fail to prohibit that any part of the net earnings of the organization will benefit any private shareholder or individual. Your Articles of Incorporation also do not provide for the distribution of your assets to a qualified entity in the event you dissolve.

Your organization also fails the operational test of section 501(c)(3) since your primary activity of maintaining the common grounds surrounding your homeowners association is not activity that is exclusively religious, charitable, educational, or scientific. Therefore, based on the information submitted, we have concluded that you are not entitled to exempt status under section 501(c)(3).

Contributions to your organization are not deductible under section 170 of the Code.

Our review of the activities of your organization and other information submitted indicates that your purposes are similar to those of a condominium association. Under section 528 of the Internal Revenue Code, organizations that perform activities similar to your activities are treated as Homeowners Associations under the special provisions of this section. An organization that qualifies as condominium association is not required to file an application for tax exempt status, but must file federal income tax income returns on Form 1120 H. We are enclosing some general information on the organization's responsibilities under section 528 for your information.

[REDACTED]

Since your organization is not entitled to tax exempt status under section 501(c)(3), it is a taxable entity and is required to file federal income tax returns on Form 1120.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, laws and any other information to support your position as explained in the enclosed Publication 892. You will be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient district office. If we do not hear from you within 30 days from the date of this letter, this determination will become final and a copy of this letter will be sent to the appropriate state officials in accordance with section 6104(c) of the Internal Revenue Code.

If you do not protest this proposed determination under 501(c)(3) in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the code states, in part, that "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted all administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]

District Director

Enclosure: Publication 892
Publication 588

cc: [REDACTED]